

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Second Appeal No. 97 of 2002

Narayan Mahto

... .. Appellant

Versus

Fulaki Devi & Ors.

.... Respondents

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Alisha Lakra, Advocate

For the Respondents : Mr. Nehru Mahto, Advocate

35/Dated: 14th July, 2025

I.A. Nos. 8143 & 8723 of 2025

1. Learned counsel for the respondents has filed one interlocutory application I.A. No.8143 of 2025 to inform about the death of respondent No.1, Fulki Devi, respondent No.3(a), Sara Devi and respondent No.3(d) Keshar Mahto @ Chandra Bhushan Prasad and another interlocutory application i.e. I.A. No.8723 of 2025 has been filed by learned counsel for the appellant for substitution of heirs and legal representatives of the sole appellant as well as respondent Nos.1, 3(a) and 3(d).
2. Learned counsel for the appellant has submitted that this appeal was admitted on 17.10.2003, thereafter the case was listed in the year, 2022 dated 16.06.2022 and 16.08.2022 respectively and the case is regularly being listed since 06th January, 2025. It is further submitted that the appellant has no contact with his counsel and when the case was listed for final hearing, learned counsel for the appellant communicated him to take effective steps in the matter of hearing but it was informed that the sole appellant has died on 01.09.2009 itself. Therefore, this application has been filed for substitution of heir(s) and legal representative(s) of the sole appellant as mentioned at para 2 of the interlocutory application i.e. I.A. No.8723 of 2025. Since, the substitution petition has not been filed within time, hence, and the appeal has abated automatically. Therefore, prayer is also made to set aside the automatic abatement as a cause of action survives in favour of legal representative(s) of the appellant.

It is further submitted that later on through I.A. No.8143 of 2025 dated 30.06.2025, it was informed by learned counsel for the respondents

that respondent Nos.1, 3(a) and 3(d) have also been died. In respect of whom, a joint prayer has been made in the I.A. No.8723 of 2025 for substitution of legal representative(s) of the sole appellant as well as the respondent Nos.1, 3(a) and 3(d) but the appellant wants to segregate his prayer in respect of the respondent Nos.1, 3(a) and 3(d) by filing a separate petition and prayer in regard to the substitution of the respondent Nos.1, 3(a) and 3(d) is hereby not being pressed in this petition.

3. On the other hand, learned counsel for the respondents has vehemently opposed the prayer of the appellant solely on the ground of inordinate delay but it appears that the reason for delay has sufficiently been explained by the learned counsel for the appellant while pressing I. A. No.8723 of 2025.
4. In view of the above, I find sustenance in the argument raised on behalf of the appellant, the interlocutory application i.e. I.A. No.8723 of 2025 is allowed, subject to payment of cost of Rs.2,000/- by the appellant to the respondents through their counsel appearing in this case.
5. Learned counsel for the appellant is directed to substitute the name of heir(s) and legal representative(s) of the sole appellant, Narayan Mahto and also delete his name during course of the day and to mention the word 'Dead' against his name with 'Red Ink' in the cause title of the memo of appeal.
6. Accordingly, I.A. No.8723 of 2025 and I.A. No.8143 of 2025 are disposed off with aforesaid observation.

S.A. No.97 of 2002

7. Let the matter be listed on 29.07.2025.

(Pradeep Kumar Srivastava, J.)

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